



00007560

INQUEST TOUCHING THE DEATHS OF:
ARLENE MAY & RANDY JOSEPH ILES.
JURY VERDICT AND RECOMMENDATIONS

BY: ONTARIO. OFFICE OF THE
CHIEF CORONER

1998

HQ
809.3
C2
O57
1998

HQ 809.3 C2 057 1998

Ontario.

Inquest touching the deaths
of Arlene May & Randy J. Iles

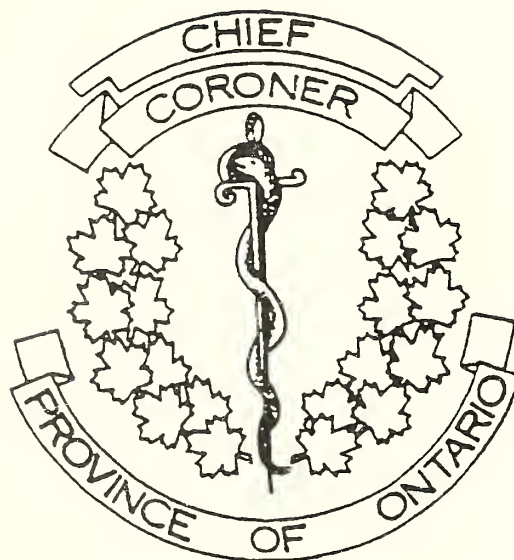
00007560

HQ 809.3 C2 057 1998

Ontario.

Inquest touching the deaths
of Arlene May & Randy J. Iles

MINISTRY OF THE
ATTORNEY GENERAL
LAW LIBRARY



INQUEST TOUCHING
THE DEATHS OF:

ARLENE MAY

&

RANDY JOSEPH ILES

JURY VERDICT
AND
RECOMMENDATIONS

INQUEST DATES

February 16, 17, 18, 19, 23, 24, 25, 26

March 2, 3, 4, 5, 9, 10, 11, 12, 23, 24, 25, 26, 30, 31

April 1, 2, 6, 7, 8, 9, 14, 15, 16, 27, 28, 29, 30

May 4, 5, 6, 7, 8, 11, 12, 13, 14, 25, 26, 27, 28, 29

June 1, 5, 8, 9, 10, 15, 16, 17, 18, 19, 22, 23, 24, 25, 26, 29, 30

July 2

MINISTRY OF THE
ATTORNEY GENERAL
LAW LIBRARY



Digitized by the Internet Archive
in 2017 with funding from
Ontario Council of University Libraries

https://archive.org/details/mag_00007560



The Solicitor General
Ministère du Solliciteur général

The Chief Coroner
Bureau du coroner en chef

Verdict of Coroner's Jury / Verdict du jury, etc.

We
Nous soussignés, John POPKIN of Toronto
Teresita GAUOSA of Toronto
John GOUGLAS of Toronto
Rhonda KING of Toronto
of
de

The jury serving on the inquest into the death of: / dûment assermentés, formant le jury dans l'enquête sur le décès de

Surname / Nom de famille

Given names / Prénom

ILES

Randy Joseph

aged 36 held at Coroners Inquest Courts, 15 Grosvenor Street, Toron
âgé(e) de 36 qui a été menée à Coroners Inquest Courts, 15 Grosvenor Street, Toron
on the SEE ATTACHED LIST day(s) of 19 98
le SEE ATTACHED LIST (du/su)
by Dr. Bonita PORTER Coroner for Ontario.
par Dr. Bonita PORTER coroner pour l'Ontario.

having been duly sworn, have inquired into and determined the following: / avons enquêté et avons déterminé ce qui suit

- 1 Name of deceased
Nom du (de la) défunt(e) Randy Joseph ILES
- 2 Date and time of death
Date et heure du décès 8th. March 1996 / after 3-30pm.
- 3 Place of death
Lieu du décès 88 Timmons Street, Collingwood Township
- 4 Cause of death
Cause du décès Suicide
- 5 By what means
Circonstances entourant le décès Gun Shot to Chest

(Continue on reverse side if necessary / Continuer au verso si nécessaire)

Foreman/Président du jury

Signatures of Jurors / Signature des jurés

This verdict was received by me this _____ day of _____ 19_____
Ce verdict a été reçu par moi le _____ jour de _____ 19_____

Signature of Coroner / Signature du coroner

Distribution Original - Regional Coroner for forwarding to Chief Coroner / L'original - coroner de la région pour transmission au Coroner en chef
Copy - Crown Attorney / Copie - Procureur de la Couronne

OPENING STATEMENT

We the Jury, on behalf of the citizens of Ontario, wish to express our sincere condolences to the families of Arlene May and Randy Iles. The effects that this tragedy has had on their families is well understood and has been held in high priority during this inquest.

As we approach the millennium, we are faced with the reality of the violence occurring to women and children in our society. Until we, as a country stand up and declare a 'Zero Tolerance', this problem will not only continue, but in this jury's opinion, will escalate. It is our belief that every person has an equal right to be protected from abuse.

A combined effort must be made by our Government and Communities in order to put an end to family violence. The myths attached to family violence must be dispelled. Domestic violence is a Criminal Offence and must never be viewed as a 'private matter'.

Domestic violence cases are different than other criminal cases. In most situations the accused and the victim would normally never meet again. With domestic violence, the accused often must have contact with the victim due to property, support and child issues. The criminal justice system will have to be changed to deal effectively with these differences.

With these goals in focus, we offer the following recommendations, which are not in any particular order of priority but have placed into categories where we felt they could be easily and best implemented.

A. STEERING COMMITTEE

We recommend that the Ontario Government immediately form and fund a Steering Committee composed of equal numbers of Government and Community based members. The steering committee should be responsible for the following:

1. To determine what statistics from Government and Community organizations are required to monitor the effectiveness of programs.
2. To inventory and review all existing domestic violence related services and programs.
3. To recommend the creation, expansion, reduction combination of services to form a seamless domestic violence program across Ontario, eg. a review of community-based Victim Services (VCARS, Victim Services of Peel, etc.) and the Victim/Witness assistance program (VWAP).
4. To continue to monitor the efficiency of the programs and recommend necessary changes.
5. Committee members should all be experts in the area of domestic violence.

Rationale

A 'patchwork' of Victim Services have been formed throughout Ontario due to a lack of communication, co-operation and co-ordination. In order to provide a seamless program, it would be best if the private and public sectors worked not as competing interests, but together as partners. Their joint efforts would better co-ordinate all financial and human resources in the common goal of stopping domestic violence, which is at epidemic proportions. A Steering Committee would accomplish this.

B. GENERAL RECOMMENDATIONS

1. The Government of Ontario should establish a committee, including equal numbers of Government and Community based members to oversee the Implementation and co-ordination of the recommendations made as a result of this inquest.
2. The Government of Ontario should initiate a campaign, or strengthen any existing campaign, to generate public awareness of domestic violence and its effect on victims and witnesses, breaking the silence of victims and those who are aware of their victimization, and promoting a widespread zero-tolerance policy.
3. The design and implementation of such a campaign should involve the input of victims' groups and service providers, as well as recognized experts in the field of domestic violence.
4. All Ministries of the Government of Ontario should consult with woman's advocacy groups before the introduction of any initiatives or policies related to domestic violence against women and child witnesses of violence.
5. The Status of Women Canada/Ontario Women's Directorate should conduct an audit of the recommendations of the Panel on Violence Against Women in Canada and report publicly on progress made towards each specific recommendation, as well as an action plan to complete those recommendations not yet implemented.
6. Defence Lawyers must be reminded of their obligations under the Law Society Professional Code of Conduct when acting for the accused in Domestic Violence cases and there is concern for the victim's safety.
7. The Chief Coroner's Office should provide a report one year following release of the jury's recommendations publicly reporting on the status of implementation of the recommendations and reasons provided by the parties for failure to implement any of the recommendations.
8. The Ministry of Community and Social Services should review the funding for shelters for abused women and children.

C. POLICE

Risk Assessment and Safety Issues

1. All police officers should be directed to provide safety planning to woman victims of domestic violence, or to call a Victim Services to provide immediate safety planning or accompany the woman to a women's shelter where safety planning can occur as a routine procedure in all cases
2. Police should be directed through a written 'Duty to Warn' policy of the responsibility to warn all victims of domestic violence about the risks of their situation.
3. If police officers have concerns for the victim's safety they must include that opinion and the reasons in the crown brief in conjunction with the safety checklist.
4. All police officers should be directed by written policy to conduct a risk assessment in consultation with the victim and Victims Services during routine domestic violence case investigations. Police must be directed to inform the woman that she may revise the information on the assessment at any time.
5. Risk assessment codes should be placed on OMPPAC showing that the assessment was done on the accused.
6. Police officers involved in the investigation of domestic violence should be directed to consider the use of the Behavioural Science Unit, Ontario Provincial Police to conduct a complete risk assessment analysis for repeat offenders or offenders of concern.
7. The risk assessment and lethality checklists should be included in the field guides of police officers for ready reference during the conduct of investigations and the preparation of documentation for Court use. Police officers must be trained in the use of checklists.
8. Police should be directed to carry pamphlets for immediate distribution to victims of domestic violence which contain the following information:
 - a) All services available to the victim and her children in the local community; and
 - b) An explanation of the cycle of violence and advice on safety planning ideas and techniques.

D. POLICE

Investigation Procedures

1. Dedicated police teams should be set up for domestic violence cases and each case should have a dedicated officer (with training in domestic violence) assigned to follow the case through from beginning to end and to act as victim's contact. (To avoid having the victim repeat her entire history over and over).
2. Police should use the domestic violence checklist developed under the direction of the Implementation Committee to ensure a thorough investigation.
3. Investigating police officers should be directed by written policy to contact 'Victim Services' after first contact with woman victims of domestic violence in order to ensure support from the earliest possible involvement with the criminal justice system.
4. The investigating officer is to make such inquiries of the accused's family members, or other associates as may reasonably be practicable to ascertain whether weapons/FAC's are available to the accused.
5. Where police become aware of current intimate partners other than the victim in a particular incident, they should make an effort to contact the woman and inform/warn her of potential risk to her and her children.
6. In cases where there is more than one victim, the secondary and other victims should get the same consideration and help as the primary victim.
7. Every police officer who is involved in the investigation of domestic violence cases should be instructed to examine each case for evidence of stalking behaviour (criminal harassment).
8. Police Officers should be encouraged to:
 - a) Make use of electronic recording of evidence in domestic violence cases such as audio and videotape;
 - b) Prepare summaries of the important evidence on such tapes and 'flag' such summaries and their importance for the benefit of the crown attorney who will deal with the matter in bail court; and
 - c) Provide a copy of any typed transcript and/or synopsis to the victim as soon as they are available.
9. That before sworn videotaped statements are taken, police must be directed by written policy to inform women that such statements may be used without their consent and may be disclosed through the Defence to the accused.
10. Police must collect all evidence available in every domestic violence case, including photographs/videotape of the crime scene, 911 tapes, answering machine tapes, statements of the accused and the victim, statements of any witnesses, hospital records, utterances to police not captured on tape, etc. in order to minimize the onus placed on victims to provide testimony.

11. All statements obtained by the police from victims, witnesses and accused must be dated when taken.
12. Police should be directed to follow current Police policy that photographs of injuries to female victims, which are covered by clothing should be taken by female police staff. And further, that photographs be taken immediately after the assault and again 24-48 hours later when soft tissue contusions become more visible.
13. The Police policy should instruct Police officers to consider charging an offender with obstruction of justice where there are reasonable grounds to believe that a breach of a restraining order has occurred while charges are still pending against the offender. The reporting officer should review the circumstances of the breach with the Crown Attorney so that the possibility of seeking bail variation or revocation can be considered.
14. In keeping with the existing policy of mandatory charging in the instance of domestic assault, when a Police officer investigates a case of domestic violence wherever there is evidence of stalking there should be a corresponding mandatory charging policy requiring that the accused be charged with criminal harassment pursuant to section 264 of the Criminal Code of Canada.
15. Police must complete their notes prior to going off-duty. Protocols should be developed regarding the standards for such notes. Important information must be summarized and separately highlighted. Investigating officers must ensure that the officer who will attend in court is fully cognizant of all issues and concerns and that these will be conveyed in a meaningful way to the Crown Attorney and to the Court.
16. Where there are allegations of counter assault, Police must investigate fully to determine the primary offender in order to distinguish assault from defensive self-protection.
- Further, that Police be directed by written policy not to lay charges in cases where victims have taken self-defensive action.
17. All materials in the Crown Brief must be marked with the date and time entered and the signature of the police officer or Crown Attorney/Assistant Crown Attorney responsible for the entry.
18. a) All domestic violence case briefs must be 'red flagged' for special attention by the prosecution, and to ensure full compliance with the policies regarding the conduct of bail hearings, and the prosecution of spousal/partner abuse cases.
- b) Flags on the brief should indicate the nature of violence:
- c/a - child abuse,
p/a - partner abuse,
d/a disable abuse
e/a - elder abuse.
- c) Where the victim of an offence is a vulnerable person the flag should be coded on CPIC and OMPPAC.
19. When possible, investigating officers should make themselves available in bail court where the case involves domestic assault.

20. Investigating Police officers should be directed by written policy to inform victims of domestic violence immediately of the time and location of the bail hearing, and subsequently of all court appearances of the accused.

21. Police should have the victim's safety foremost in their minds when they list terms for release in the event that the accused is granted bail.

22. Following a bail hearing, the Police have the responsibility of ensuring that the result of the hearing and any release conditions are communicated to the victim. Further, the victim should be provided with a copy of the recognizance or a summary of the bail conditions. The conditions must be explained to the victim including the fact that a no-communication order means that if she contacts the accused she may precipitate a breach.

23. All bail breaches, but particularly stalking-related bail breaches must be reported to the Crown Attorney forthwith together with an updated assessment of the danger risk.

24. All Police officers should be directed to investigate the first reported incident of domestic violence as a serious, high priority call based on the fact that on average women experience 35 assaults before reporting to the Police.

25. A Victim Services representative should be available to attend bail hearings in the event the victim does not attend to ensure that the victim's position on safety concerns is made known to the court.

26. Each Police Service should have a domestic violence co-ordinator to liaise with Crown Attorneys, Parole and Probation Services, the Victim/Witness Assistance program (VWAP), and other local services responsible for responding to issues related to incidents of domestic violence, and who, will in turn, communicate those issues and initiatives to all members of the Police Service.

27. Police should develop protocols in conjunction with Victim Witness Assistance and Victim Services staff, to ensure that victims in cases which do not go to court continue to receive appropriate community referrals and supports. Victims cannot be permitted to 'fall between the cracks'.

E. POLICE

Bail Briefs

1. Policing Services, in consultation with the Ministry of the Attorney General should establish a standard Crown brief protocol for use by all Police Services throughout the Province of Ontario.
2. The contents of the standard Crown bail brief, should be available to all Police Services by computer access in order to ensure that information known to one jurisdiction is available to another, to detect if the accused has outstanding charges and releases for crimes of violence in the another jurisdiction.
3. All briefs should have an envelope with an index on the front cover showing document name, creation date, inclusion date and a disclosure date.
4. On every document inside the brief the number of pages of the document should be indicated and initialled by the creator. When adding a note to the brief, the note must be attached to a full sheet of paper and listed on the front cover of the brief. No 'post-it' notes to be used.
5. Police officers must ensure that all the information in a bail brief is up-to-date. In the case of electronic records that can change over time to reflect new information, these must be updated immediately before and, if necessary, during a bail hearing.
6. Recognizing that the Integrated Justice System project will not be completed for a number of years, current systems should be adapted immediately to include:
 - a) Risk assessment information;
 - b) Results of bail and other court proceedings;
 - c) A domestic violence indicator on all charges in which domestic violence is a factor; and
 - d) Bail conditions.

F. POLICE

Systems (OMPPAC and CPIC etc.)

1. Police court officers should have courthouse access to CPIC in all jurisdictions in Ontario for immediate criminal record checks and data entry.
2. Police and court officers should enter information related to domestic violence cases, including results of bail hearings and other court appearance on computer systems immediately, or at least within a maximum of 24 hours, and that officers should be available to enter information on a 24-hour basis.
3. The ViClass information system reports should specifically include high-risk domestic violence crimes such as use of weapons, threats to kill, criminal harassment, assault-causing bodily harm, abduction and unlawful confinement, breach of bail conditions etc.
4. All police forces should be obliged to use OMPPAC.
5. Specific search fields within CPIC should include 'domestic violence' as a category in order that the record of anyone involved in violence within an intimate relationship is captured in a search of the accused's criminal past.
6. All Family violence cases should be flagged and tracked separately throughout the system in a standardized manner across the province.
7. Any new pilots or initiatives must have a data collection component so that the effectiveness of the program may be measured. Data collection components must be added to any existing pilot projects.
8. Pending implementation of the Integrated Justice Project, steps should be taken to improve information available on CPIC.

G. POLICE

Training/Education

1. Training of Police officers should include presentations by independent, front line, community-based women's and children's advocates and survivors of domestic violence.
2. All new training materials for Police officers regarding domestic violence should reflect the various needs of women to ensure equality of service.
3. Ontario Police College trainers not seconded from community-based, front line women's services should receive 'train the trainer' education from the representative of these services before beginning to train Police officers.
4. All front line Police officers and their supervisors must receive mandatory on-going, recurring domestic violence training in the following areas:
 - a) Investigative techniques for domestic violence;
 - b) Safety planning and the use of safety planning checklists;
 - c) Risk assessment and the use of risk assessment checklists; and
 - d) Lethality factors and the use of the lethality checklists.
5. Police and court officers should be trained to enter information related to domestic violence cases, including results of bail hearings and other court appearances on computer systems immediately, or at least within a maximum of 24 hours, and that officers with such training be available to enter information on a 24-hour basis.

H. POLICE

General

1. The Government of Ontario must consider specifically funding programs for small municipal Police services, and for other service providers in smaller urban or rural areas, to ensure the availability of adequate resources to address all issues related to domestic violence. All Police forces must be trained to the same standard.
2. Protocols should be developed on the role and duties of Police court officers.
3. There should be a provincial standard that emphasizes victim safety.
4. A Universal safety checklist should be developed for use by Police officers. The checklist must deal with risk or threat indicators.
5. A checklist of Procedures must be created to be used by Police officers in cases of domestic violence to ensure that full investigation is completed and documented immediately.
6. The Behavioural Science Unit, OPP should, in consultation with representatives from shelters, Victim Services and other authorities in the field of domestic violence, develop a risk assessment instrument and a lethality checklist. These should be used by the investigating police officers in all cases of domestic violence as a reminder of important matters to consider, such as whether the accused has access to firearms and/or possess a FAC.

I. MINISTRY OF SOLICITOR GENERAL AND CORRECTIONAL SERVICES

1. The Policing Services branch of the Ministry of the Solicitor General and Correctional Services should conduct an audit of domestic violence cases in conjunction with the Police Services to determine whether there are any deficiencies in the investigation of such cases, and to make recommendations in areas where additional training and education is required.
2. Individual Police officer response to domestic violence, should be monitored province wide. Officers should be held accountable to a provincial standard on response to domestic violence.
3. The Solicitor General of Ontario should issue a directive encouraging Police to use their authority under Section 103 of the Criminal Code to search and seize weapons and FAC's from an individual for safety reasons in domestic violence cases.
4. A protocol should be established province wide with Police Services for the preparation of summaries, and transcripts of video tape statements for timely use in prosecutions.
5. The Solicitor General shall arrange that all Police Services in the province have access to OMPPAC.

J. VICTIM/WITNESS ASSISTANCE

1. The Victim/Witness Assistance program must be migrated to all jurisdictions in the province immediately.
2. Where there is no Victim Service program currently in place, Victim/Witness Assistance program staff must contact the victim prior to the commencement of the bail hearings to ensure that all important information has been brought to the attention of the Crown. Program staff must be made available to assist the crown attorney and the victim.

Rationale

It is vitally important that the victim receive assistance and advice before the bail hearing so that she can make informed decisions regarding the safety of herself and her children. Victim Services is preferred for this due to its independence from the criminal justice system, however in the absence of Victim Services, Victim Witness Assistance should be expanded to address the bail hearing.

3. Victim/Witness Assistance program staff should interview victims as early as possible.
4. Victim/Witness co-ordinators are to advise women using the program that information and documentation they provide to the co-ordinator may be disclosed to the victim's abusive partner.
5. Victim/Witness Assistance personnel should be fully trained on issues of domestic violence and its impact on child witnesses of violence. Training should be provided by community-based, front line women's advocates and should include information on compounding issues such as culture, race, language, disability, sexuality etc.

K. MEDICAL PROFESSION

1. Physicians should utilize a documentation protocol to record evidence of suspected, and confirmed domestic abuse of patients.
2. The detection and effects of domestic violence should be included in the curriculum of medical schools, the licensing examinations for physicians and other medical health professionals, and their continuing education programs.
3. Medical professionals should have a duty to inform about patients who present as an imminent risk to the safety of others.

L. INTEGRATED JUSTICE SYSTEM

1. The efforts of the Integrated Justice Project should be encouraged, particularly those initiatives that will result in better information and data collection, and in improved communication links among those involved in the criminal justice system.
2. The Integrated Justice Initiative should be directed to develop policy and systems software that can easily facilitate collection and insertion of information flagging charges, reports, checklists, bail conditions, convictions, etc. as domestic violence related.
3. The Integrated Justice Initiative should be directed to incorporate into information systems, a mechanism for reporting lethality factors of accused in domestic violence cases.
4. The Integrated Justice Initiative should be directed to include provision on all Police computer information systems for the retrieval and sharing of family law restraining orders, orders for possession of the matrimonial home and custody/access orders.

M. FIREARM ACQUISITION CERTIFICATES (FAC)

1. The Federal government is encouraged to bring into force on October 1, 1998 the firearm licensing provision of Bill C-68, notwithstanding any delays which may occur due to litigation involving the gun control and registration portion of the legislation.

2. If regulations associated with C-68 federal gun control legislation are not implemented as scheduled, firearm acquisition officers in Ontario should be directed by written policy to conduct a full investigation into applications for FAC's, including interviews of all references and current and former partners, criminal history search with specific focus on violent and domestic related charges, lethality assessment factors, suicide attempts, contact with relevant community professionals etc.

3. All police officers in Ontario must receive training on the new firearms legislation and policy with particular focus on domestic violence issues.

4. The policy and procedures of Police Services should direct that whenever an application is made for an FAC the Police Service that conducts the background investigation shall create an occurrence report. The occurrence report should be entered on OMPPAC or other computer system utilized by the police services regardless of whether the application is granted or refused, in order that information is made accessible to other Police Services.

5. Police to regularly monitor sellers of firearms for compliance to the latest legislation.

6. It is recommended that the authorization to purchase an unrestricted firearm as required by the draft provisions of Bill C-68 must be delayed for up to seven days to be certain that the 'firearm interest person' (FIP) record system has been updated to include all firearm prohibition orders.

7. All Police officers involved in the investigation of domestic violence must be trained and instructed to make a check with the Chief Provincial Firearms Officer to ascertain whether an accused has a firearm acquisition certificate.

8. The issuance of a warrant to arrest an accused should automatically trigger the suspension of an FAC.

9. The Ministry of the Attorney General must ensure that Crown Attorneys receive training on the new federal firearm licensing and registration provisions of Bill C-68.

10. The Ministry of the Attorney General, as part of its education plan, must ensure that every Crown Attorney knows how to check or to arrange to check to see if someone has a firearm acquisition certificate (FAC).

11. Checking for FAC's and consideration of an FAC ban as a bail condition must be mandatory in domestic violence cases.

12. The Police should be directed to ask accused and victims of domestic violence about the existence of a firearms acquisition certificate, firearms, or possession of other lethal weapons, in every domestic violence case and that further, Police should check the accuracy of facts such as address and phone number prior to preparing for the bail hearing.

13. Where victims indicate the accused has a gun, Police should investigate fully the possession of firearms and FAC's including contacting additional partners of the accused known to Police, checking computer data bases and seeking warrants to search vehicles and premises, including workplace, etc., pursuant to Section 103 of the Criminal Code of Canada.

14. In all instances where an accused is charged with an offence involving domestic violence, the Police shall recommend a firearms/weapons prohibition, and an order directing the accused to surrender his firearms acquisition certificate and weapons be requested.

15. Where an accused is ordered to surrender an FAC and/or weapons, procedures should call for immediate enforcement by the Police.

N. SPECIALIZED DOMESTIC VIOLENCE COURTS

1 The Attorney General should ensure that there are dedicated domestic violence courts, which incorporate both the early intervention approach as employed in the North York model and the vigorous prosecution approach utilized in the Toronto K-Court model, where the volume of cases warrant such Courts. These dedicated courts should be staffed by:

- a) Specifically dedicated Crown Attorneys trained in the prosecution of domestic violence cases;
- b) Specifically dedicated Police officers trained to investigate cases of domestic violence and the collection of evidence to ensure a vigorous prosecution; and
- c) A Victim/Witness assistance program co-ordinator and staff to assist and advocate in the interest of the victim through the criminal court process.

2. The domestic violence court should deal with all cases of domestic violence within the jurisdiction from the bail hearing to the conclusion of the case. In addition, all breaches of bail orders relating to charges of domestic violence should be dealt with swiftly, effectively and consistently within the dedicated domestic violence court rather than within the general stream of cases conducted in the criminal courts.

3. In court districts where case load and staffing levels won't support the dedicated court, the spirit of the model should be implemented using dedicated crowns.

4 Bail hearings in these districts should be divided into domestic violence cases and all others. There should be a separate Crown for domestic violence bail hearings and there should be sufficient time for review of the bail brief.

5 Crowns and Judiciary involved in domestic violence courts should receive training on the objectives and methods of the North York/K-Court model and in-depth training on domestic violence.

6. The existing North York model of specialized courts should be fully evaluated including interviews with victims and women's advocates to find out which functions should or should not be used in the domestic violence court and which function(s) should be improved before migration (i.e., batterer's program).

7. Specialized courts using diversion to counselling prior to sentencing, such as the 'North York' model should be required to conduct full private interviews with women victims prior to screening cases into the model. This will ensure that prior incidents of violence are identified. The 'first charge' should not be taken to mean the 'first assault' in these cases.

8. All courts should have access to televisions, V.C.R.'s tape recorders etc.

9. A Domestic Assault Review Team (D.A.R.T.) should be established in all jurisdictions where no domestic violence court exists in order to monitor the effectiveness of policies and procedures in these jurisdictions.

O. COURTS

1. Sentences in cases of domestic violence must reflect society's abhorrence of these crimes, and the determination to take all appropriate steps to eliminate the problem. Consideration should be given to making counselling a mandatory component of any sentence.
2. Standard practices and standardized court documentation, should be developed in consultation with the Ontario Court of Justice (General and Provincial Divisions) and the Attorney General to be used throughout the Province.
3. Courts Administration should develop a standard training manual for all court clerks and staff throughout the Province.
4. Where the need exists, more bail courts must be opened within the jurisdiction on a adhoc basis to ensure that the prosecutors and the Court can give each case the attention that is required in order to protect the rights of the accused and to ensure the safety of the victim. It is also important that the prosecution has adequate time to fully present the facts of the case so that the JP/Judge is able to make an independent judgement.
5. There must be a procedure to ensure that the final copy of release orders accurately reflect the conditions agreed upon.
6. Intentional court delays by the accused and their counsel must be discouraged as they increase the potential risk to the victim and her children. These delays are expensive and over-load the court system. Where there is evidence of intentional court delays, costs should be sought as a deterrent.
7. It is recommended that Judges and J.P.'s should receive additional training on:
 - a) The dynamics of domestic violence against women;
 - b) The impact on child witnesses of violence;
 - c) The differential impacts of issues of culture, age, language and disability;
 - d) The power and control exercised in intimate relationships;
 - e) The indicators of lethality;
 - f) The application of charter interpretations to domestic violence and family law; and
 - g) Scientific advances in fields of sociology and psychology as related to domestic violence.

P. CROWN ATTORNEY

1. Crown Attorneys/Assistant Crown Attorneys must confer with victims and women's advocates in private, without the accused present.
2. Crown Attorneys/Assistant Crown Attorneys assigned to bail hearings in domestic violence cases must be experienced Crowns with advanced training and experience in both bail hearing practices and the dynamics of domestic violence.
3. Only experienced Crown Attorneys should be involved in charge screening and the completion of charge screening forms. Paralegal's should not be involved in the charge screening process.
4. No part-time Assistant Crown Attorneys, or Crowns working on a per diem basis should be assigned to conduct domestic violence bail hearings.
5. Crown Attorneys/Assistant Crown Attorneys should be directed to warn the woman victim that all information provided by her during meetings is subject to disclosure through the Defence to her abusive partner.
6. The Crown Attorneys/Assistant Crown Attorneys should ensure that the victim has the support of Victim Services during all meetings with him/her.
7. Crown Attorneys/Assistant Crown Attorneys must ensure that notes are taken in all meetings with victims and that the notes reflect the date and time, persons present, and the substance of the issues raised and recommendations or decisions made.
8. In every domestic violence case, one Crown Attorney/Assistant Crown should be assigned responsibility for the entire case from the time of the bail hearing until final disposition of the case.
9. Crown Attorneys/Assistant Crown Attorneys should be scheduled for a number of consecutive days in bail court, perhaps a week at a time, to maintain continuity in the carriage of cases.
10. The Attorney General should arrange that every Crown Attorney be immediately provided with at least one pre-scheduled day out of Court per week for preparation of their cases, including victim/witness interviews. Where involved in a lengthy or complex prosecution, additional preparation time will be required.
11. Every Crown Attorney office shall have in place, in consultation with the local Police Service and the Victim/Witness assistance program co-ordinator an effective means of notifying the victim of the time and place of the bail hearing, the victim's right to be present, and that a process is in place to notify victims who do not attend as to the results of the bail hearing.
12. Wherever possible, when a victim of domestic violence requests that a charge be withdrawn or that a non-contact term of an accused's recognizance be varied, ~~the Crown Attorney should refer her to the Victim/Witness assistance co-ordinator~~ who should conduct an interview and prepare a written report to confirm that the request is made free of duress, intimidation, or any other undue influence. That it is within the discretion of the Crown Attorney not to accede to such requests must be explained to the victim.

CONTINUITY

VERTICAL
PROSECUTION

WITHDRAWAL
REQUESTS
BY
VICTIM

20. When an accused is released at the conclusion of a bail hearing the Crown Attorney shall ensure that a process is in place within the jurisdiction whereby the Victim/Witness assistance program staff can readily advise the victim of the terms of the release, advise the victim of community supports available to enhance her safety, and that she has been advised as to how to establish an effective safety plan.
21. Crown Attorneys/Assistant Crowns should be encouraged to use expert testimony, including testimony from front line woman's advocate in shelters and other women's services at bail and trial processes.
22. Crown Attorneys should be requesting consideration of *Section 7* and *Section 15 (Charter Rights)* - the right to life, liberty and personal security as well as equality rights—in cases of domestic violence, in addition to the rights of the accused before determining orders of bail release, bail conditions or any other court order. (ie. The victim's right to safety is as important as the accused right to freedom).
23. Crown Attorneys/Assistant Crowns must incorporate risk assessment analysis and a full history of violence in sentencing submissions to the Court.
24. In any domestic violence case where a recognizance is breached, the surety should be marked for estreatment..
25. Any breach of recognizance in a domestic violence case must be viewed as a potential risk enhancer and consequently be prosecuted vigorously and stricter penalties should be sought on conviction.
26. Every Crown Attorney shall comply with the policies and guidelines of the Ministry of the Attorney General dealing with bail hearings (B-I), spousal/partner abuse (SP-I), firearms/weapons offences (F-I) in the conduct of cases involving domestic violence.
27. An effective program should be developed to supervise Crown Attorney/Assistant Crowns which should include the training of Crown Attorneys in effective supervision, performance management skills and effective documentation. Systems to ensure a complete knowledge of Crown policies and the monitoring of compliance with Crown policies must be put in place.
28. Every Crown Attorney in the Province of Ontario must acknowledge to their supervisor in writing, that the contents of the manual have been read and understood.
29. Every domestic violence file must contain a docket sheet whereon the Crown Attorney who has dealings with the file will be required to make a notation of his/her involvement in the case.

Q. VICTIMS PROTECTION FROM DISCLOSURE

1. The Ministry of the Attorney General should study the issue of a vulnerable victim's advocate as a part of the criminal justice process.

Rationale

The position of the victim in domestic violence cases is different from that of other victims. She will be obliged to have an ongoing relationship with the accused in order to deal with property, support and child custody/visitation issues. For this reason it is imperative that the victims of domestic violence have a strong voice in the proceedings of the courts and be assured of the protection of client solicitor privilege. This study could investigate the theoretical and practical issues in the implementation of this major change to the Criminal Justice System.

2. The Government of Ontario, following comprehensive facilitated consultations with survivors of violence and women's equality seeking and advocacy groups, consider enacting legislation to protect the confidentiality of communications between women's advocates and their clients.

3. The Ontario Legal Aid Plan should provide funding to domestic violence victims who require legal advice during criminal proceedings, including issues of disclosure, Charter Rights and privacy rights.

4. A designated number of Victim Services staff should be practising members of the Bar of Ontario available to front line staff on an as needed basis to provide legal advice and, if necessary, to represent women within the justice system.

R. EDUCATION/TRAINING

1. The Government of Ontario, should through appropriate Ministry budgets, provide funding to professional educational institutions and bodies for the early training of all community professionals in contact with abused women and their children. This would include doctors, mental health professionals, teachers, lawyers, social workers, social assistance caseworkers, early childhood educators, etc.
2. The Law Society of Upper Canada should incorporate domestic violence training, including lethality assessment and safety planning, into all relevant sections of its Bar Admission materials.
3. The Ministry of Education and Training should ensure that issues of domestic violence and its impact on children be integrated into curriculum at all levels from junior kindergarten to high school graduation.
4. School Boards should be required to provide programming within the schools of their districts to teach adolescents the meaning of healthy relationships free of the exercise of power and control, coercion and violence.
5. School boards, and the schools within their districts must adopt a program of zero tolerance against violence by integrating violence prevention programs into the school curriculum.
6. Strategies must be developed within the educational system to identify children who are at risk because of direct or indirect exposure to domestic violence. Appropriate referrals to services that will promote safety and healing for the child should be made.
7. Educators must be trained to foster a climate within the schools to encourage children to disclose the violence in their lives.

S. ATTORNEY GENERAL

General

1. The Ministry of the Attorney General should create a package of resource materials on domestic violence including its impact on children for every Crown Attorney's office in Ontario for use by Crown Attorneys/Assistant Crown Attorneys in case preparation.
2. A policy for domestic violence cases should be developed which outlines the process of information sharing between Crown Attorney offices with respect to Crown briefs in situations where an accused is required to appear before a Court in another jurisdiction.
3. The Attorney General should, in cases of domestic violence, ensure that Crown Attorneys are required to prepare memoranda for the Crown brief, outlining the reasoning behind:
 - a) Consent releases on bail hearings;
 - b) Consent to the variation of terms of release, particularly where the variation permits contact by the accused with the victim;
 - c) The staying, or withdrawal of any charge; and
 - d) Any Plea bargain.

Standards should be developed for such documentation.

4. The Attorney General should ensure that there are dedicated resources that permit the calling of expert evidence at the discretion of senior prosecutors in consultation with the local Crown Attorney manager in cases of domestic violence.
5. The Attorney General should ensure in any legislative reform to Family Law, that mandatory mediation is not extended to any circumstances requiring determination of family law issues where there is a history of domestic violence.

Rationale

In cases of domestic violence, where the victim and the accused are spouses there is a risk of serious danger to the victim. Contact with the accused in mediation would only increase this danger. Also the relationship between the victim and accused is such that the mediation process would only provide the accused with more opportunities to exercise power and control over the victim. Please refer to #3 and #9 of the 'Community Based Children's Services' section of these recommendations.

6. The Attorney General should ensure that the exercise of discretion by his agents should never be influenced by considerations of expediency, particularly when the Crown considers its position on bail hearings, or when engaged in plea bargain discussions.

7. The Attorney General must ensure that the prosecutorial service is adequately resourced if the standards set in the crown policy manual are to be achieved and maintained. The lowering of standards in order to process cases is not only inappropriate but it is not in the public interest.

8. The Attorney General should monitor domestic violence cases that do not meet the threshold test for "reasonable prospect of conviction" on an annual basis to determine that the threshold test is evaluated for effectiveness and to ensure that cases are not improperly screened out because of inadequate investigation or evidence collection, time and resource pressures of Crown offices or failure to comply with Police and Crown policy.

9. The Ministry of the Attorney General shall work with Ontario Women's Directorate and consult with METRAC and other victims' groups to continue improving victim support services and response to domestic violence.

T. ATTORNEY GENERAL

Crown Policy/Manuals

1. While domestic violence cases should be prosecuted in keeping with the standards established in the Crown policy manual, the appropriate exercise of discretion by Crown Attorneys should be fostered in the construction and application of such policies.
2. All Crown Attorneys should be provided with their own copy of the Ministry of the Attorney General policy manual in printed form.
3. The Ministry of the Attorney General policy manual must contain an index of its contents, a checkoff list with every page within the manual identified by date of entry to ensure that it is kept up-to-date and is complete.
4. There should be timely and meaningful consultation with the Ontario Crown Attorney's Association and other stake holders before any new Crown policy is implemented. No new policy should be implemented unless staffing and resources are available to allow the policy to be complied with.
5. Consideration should be given to amending the Crown Policy Manual to provide Crown Attorneys with a checklist of appropriate considerations when deciding whether it is appropriate to grant a bail release, variation or withdraw charges in cases of domestic violence.
6. Attorney General shall amend the Crown Policy Manual to add a section to deal specifically with the criminal harassment provision of the Criminal Code, and to provide Crown Attorneys with guidance and direction on the vigorous and successful prosecution of criminal harassment charges.
7. The definition of 'spousal/partner abuse' within the SP-1 policy should be expanded to cover all cases of domestic violence involving intimate partners and dating relationships.
8. The bail policy, as contained in the Crown policy manual (B-1) should include a checklist of considerations and factors to be taken into account whenever a bail variation is requested in cases of domestic violence.
9. The Ministry of the Attorney General shall work toward an effective system of distribution of new, updated or amended policies of the manual to its Crown Attorneys.
10. The policy regarding the prosecution of criminal harassment, (stalking), should direct that Crown Attorneys avoid staying, withdrawing, or otherwise plea bargaining away such charges where there is evidence that meets the prosecutorial standard of a reasonable prospect of conviction, in order that the record of the offender reflect the nature of the criminal conduct.
11. The Attorney General should develop policies and procedures to ensure the safety of victims of domestic violence attending court at the same time as accused.

U. ATTORNEY GENERAL

Legal Aid and Funding

1. The Ministry of the Attorney General, in conjunction with the Law Society of Upper Canada, shall review the adequacy of emergency legal aid funding for victims of domestic violence
2. Legal aid funding and hours of legal services for family law issues should be increased to ensure that women and children experiencing domestic violence, have sufficient financial resources to address all family law related issues affecting their safety, well-being, property and legal rights under the law.
3. The Legal Aid Plan should establish a fund for financial support for victims families and advocacy organizations to assist with representation at future Coroner's inquests where a lack of resources presents a barrier to full and equal participation. This is important for victim's families.

W. ATTORNEY GENERAL

Education and Training

1. The Attorney General should ensure that all Crown Attorneys in the prosecutorial service receive training in the dynamics of domestic violence, the cycle of violence and the power and control exercised within intimate relationships. Further, Crown Attorneys who deal with cases of domestic violence must be trained to use strategies to prosecute cases without the necessity of victim co-operation or participation. The training should include:

- a) Knowledge of the relevant law;
- b) A case book of the current thinking of leading authorities and experts on the magnitude of domestic violence in Canada, battering theories and the emotional and physical harm that domestic violence causes victims;
- c) Techniques for the vigorous and successful prosecution of difficult cases, such as the use of KGB video tape statements, photographs of injuries, 911 audio taped emergency calls;
- d) A thorough familiarity with the relevant provisions of the Crown policy manual dealing with bail, spousal/partner abuse, firearm/weapons offences and criminal harassment;
- e) The use of risk assessment instruments and lethality checklists;
- f) The use of expert evidence;
- g) Effective interview techniques and active listening skills;
- h) The effective use of the Victim Services available through the Victim/Witness Assistance program and/or community based victim service program; and
- i) Training on arguing the right of abused women under Section 7 and 15 of the Charter of Rights and Freedoms.

2. There should be adherence to the Yeo inquest recommendations pertaining to training of Crown Attorneys regarding bail hearings and effective advocacy, with emphasis on those issues in the context of domestic violence cases.

3. There should be more education and training opportunities for Crown Attorneys both within the criminal law division and outside professional organizations such as the Canadian Bar Association, the Law Society of Upper Canada, Advocate Society and the Federation of Law Societies. In particular, the Crown Attorney's Fall Conference should be restored as a compliment to the Spring Conference and the Crown Attorneys Summer School.

4. The Attorney General should develop an evaluation tool to periodically evaluate the effectiveness of training and to identify training needs with respect to domestic violence. The tool should also identify the extent to which training is implemented by Crown Attorney/Assistant Crown Attorney in daily practice.

5. The Attorney General should develop any new Crown training materials on domestic violence in collaboration with independent, front line, community-based women's advocates

6. The Attorney General should endeavour to arrange presentations in domestic violence training situations by independent, community-based women's and children's advocates and survivors of domestic violence.

7. The Ministry of the Attorney General should ensure that all Children's lawyers, all lawyers on the Provincial panel dealing with parent/child relationships and all family court child assessment professionals receive training on issues of domestic violence and its impact on children in collaboration with independent, community-based children's and women's advocates, including training on compounding issues such as race, culture, language, disability, sexuality, etc.

X. COMMUNITY BASED CHILDREN'S SERVICES

1. Child protection services and Children's Mental Health centres should inquire on all intake interviews whether children have witnessed violence within the home.

2. To achieve effective early intervention, Police, Medical Professionals, Educators and Child Protection Services must develop effective co-operative protocols.

3. Child protection legislation should be amended to include in the definition of "child in the need of protection", children who are exposed to domestic violence. Rather than triggering the "apprehension" function of the child protection services, which would inhibit the reporting of domestic violence by mothers, the detection or reporting of children exposed to domestic violence should result in access to services and resources to the mother and the children.

4. Counselling and advocacy programs for child witnesses should be established in independent, community-based agencies such as women's shelters and women's services with expertise in domestic violence against women and its impact on child witnesses in order to provide integrated, seamless support for both women and children as a family unit.

5. Child protection workers and women advocates should be involved in con-joint training to resolve misunderstandings and conflicts in their approach to issues involving the safety of women and children.

6. In cases of homicide or homicide-suicide, children of all relationships of the offender and victims should receive immediate comprehensive intervention and support from counsellors and advocates with expertise in all aspects of domestic violence and its impact on child witnesses.

Under no circumstances should the media have unsupervised access to the children in these situations.

7. Both the Federal Minister of Justice and the Provincial Attorney General should amend their respective legislation, i.e. The Divorce Act and the Children's Law Reform Act, to include:

- a) A presumption against awarding custody or unsupervised access of children to an abusive parent in cases of domestic violence; and
- b) A definition of the "best interest of the child" which considers whether an abusive parent is a proper parental model.

Y. COMMUNITY BASED VICTIM SERVICES

1. Victim Services, whether based on the model of VCARS or Victim Services of Peel, or a combination of those services should be immediately made available across the province to provide assistance to the victim from the time of victimization to the conclusion of the court process and beyond. Victims, wherever they are located in the Province of Ontario should be entitled to an equal level of service independent of the Criminal Justice System on a 24 hour, 7 day a week basis.
2. Victim Services should have access to police synopsis of the incident.
3. Victim Services should be fully funded by the Government of Ontario.
4. Any Victim Service, recommended by the Steering Committee should include the following aspects and components:
 - a) Provision of advocacy and support that is independent of any government ministry control in order to ensure advocacy that is solely dedicated to supporting women's safety and well-being, and capable of providing unfettered critique of systemic barriers to both individual women, and women as a group;
 - b) Provision of children's advocate workers to advance the interests of child witnesses within the justice system;
 - c) Victim Services staff should advise victims of domestic violence about issues related to the experience of domestic violence, act as a central contact person independent of the control of the Justice System, accompany women to appointments with Police and Crown Attorneys/Assistant Crowns and assist in the education of the Justice system with respect to issues of domestic violence;
 - d) Victim Services should be located in community-based women's services facilities such as shelters; and
 - e) Victim Services should be adequately funded and resourced to provide safety equipment such as pre-programmed cellular telephones and DVERS (domestic violence emergency response system) alarms where necessary.

Z. ABUSERS PROGRAMS

1. All abusers counselling groups funded by the Government of Ontario for attachment to special domestic violence courts must include the following aspects.

- a) Mandatory training for all abusers' counselling leaders on issues of importance to women victims of domestic violence and their children from community-based, front line women's and children's advocates as a pre-condition for public funding. And further that training include gender issues in domestic violence as well as sensitivity to issues of culture, race, disability etc. as compounding barriers to women and children escaping violence;
- b) Accountability to partners of those in the program including frequent contact between the program and any partner of participants involved in the groups;
- c) Limitations on the confidentiality of abusers and duty to warn partners, Police and Probation Officers of danger to the victim or any other partner of the abuser;
- d) Provision for at least 26 weeks of counselling with regular follow-up services for a period of time after completion of counselling; and
- e) Mandatory incorporation of risk assessment and safety planning for partners of abusers participating in counselling groups.

2. Monitoring must be done by the appropriate Government Ministry on a regular basis to ensure groups comply with current minimum Government guidelines.

